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Attorneys for Debtor BCE West, L.P., et al.

**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF ARIZONA**

|                         |   |                                       |
|-------------------------|---|---------------------------------------|
| In Re:                  | ) | Chapter 11                            |
|                         | ) |                                       |
| BCE WEST, L.P., et al., | ) | Case Nos. 98-12547 through            |
|                         | ) | 98-12570-ECF-CGC                      |
|                         | ) |                                       |
| Debtors.                | ) | Jointly Administered                  |
|                         | ) |                                       |
| EID: 38-3196719         | ) | <b>OBJECTION TO DELL FINANCIAL</b>    |
|                         | ) | <b>SERVICES L.P.'S MOTION FOR</b>     |
|                         | ) | <b>ALLOWANCE AND PAYMENT OF</b>       |
|                         | ) | <b>ADMINISTRATIVE CLAIM [DE 1055]</b> |

BCE West, L.P., Boston Chicken, Inc., Mayfair Partners, L.P., BC Great Lakes, L.L.C.,  
BC GoldenGate, L.L.C., B.C.B.M. Southwest, L.P., BC Boston, L.P., BC Superior, L.L.C., BC  
Heartland, L.L.C., BC Tri-States, L.L.C., Finest Foodservice, L.L.C., BC New York, L.L.C.,  
R&A Food Services, L.P., P&L Food Services, L.L.C., Mid-Atlantic Restaurant Systems, Inc.,  
BCI Massachusetts, Inc., BCI Southwest, Inc., BC Real Estate Investments, Inc., BCI Mayfair,  
Inc., Progressive Food Concepts, Inc., BCI R&A, Inc., BCI West, Inc., BCI Acquisition Sub,  
L.L.C., and Buffalo P&L Food Services, Inc., debtors and debtors in possession (the "Debtors")

1 file this Objection to Dell Financial Services L.P.'s Motion for Allowance and Payment of  
2 Administrative Claim. In support of this Objection, Debtors state as follows:

3 1. On October 5, 1998 (the "Petition Date"), the Debtors filed voluntary petitions for  
4 relief under Chapter 11, Title 11 of the United States Code (the "Bankruptcy Code"), in the  
5 United States Bankruptcy Court for the District of Arizona (the "Court").  
6

7 2. By the provisions of 11 U.S.C. § 503(a), any entity may file a request for payment  
8 of an administrative expense.

9 3. On March 30, 1999, this Court signed the Order on Debtors' Second Motion to  
10 Reject Executory Contracts authorizing the rejection of the executory contract between Dell and  
11 Boston Chicken, Inc.

12 4. On or about July 21, 1999, Dell Financial Services, L.P. ("Dell") filed a Motion  
13 for Allowance and Payment of Administrative Claim [DE 1055] (the "Motion").  
14

15 5. Dell's motion seeks an order from the Court allowing an administrative claim in  
16 favor of Dell for \$14,881.40, and requiring Debtors to immediately pay the administrative claim.

17 6. Debtors oppose Dell's Motion because it is premature and the claim amount is  
18 disputed. Administrative claims will be treated as an unclassified group entitled to payment as  
19 provided by the U.S. Bankruptcy Code, but subject to the claims objection process incorporated  
20 in the provisions of the Debtors' Plans of Reorganization (the "Plan") yet to be filed. Such  
21 administrative payments will be made in accordance with the provisions of the Plan as approved  
22 by creditors and confirmed by this Court.  
23  
24  
25  
26

7. This Court previously determined that Section 365(d)(3) does not create an absolute right to immediate payment of such administrative claims, but rather that the timing of such payment "is within the sound discretion of the bankruptcy court. ..." *In re Bryant Universal Roofing, Inc.*, 218 B.R. 948, 953 (Bankr. D. Az. 1998, quoting *In re Orvco*, 95 B.R. 724 (9th Cir. BAP 1989).

8. Based upon the present circumstances of these cases, the Debtors object to the relief requested and requests that this Court dismiss the Motion, or, alternatively, deny the relief requested in the Motion.

Respectfully submitted this 29th day of July, 1999.

## DEBTORS AND DEBTORS IN POSSESSION

By: /s/ H. Rey Stroube, III

One of their Attorneys

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on July 29, 1999 the foregoing document was served by E-mail or first class United States Mail, postage prepaid, on all parties on the Master Service List #11 dated July 22, 1999 and to the following parties of interest:

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\_\_\_\_\_/s/ Laura DeWitt